

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN MISSOURI

MICHAEL P. AND SHELLIE GILMOR,
et al.,

Plaintiffs,

vs.

PREFERRED CREDIT CORPORATION,
et al.,

Defendants.

Case No. 10-0189-CV-W-ODS

**ORDER AND FINAL JUDGMENT DISMISSING WITH PREJUDICE
(1) THE RELEASED CLAIMS, WHICH ARE DEFINED IN THE AGREEMENT TO
INCLUDE CLAIMS CONCERNING, RELATING TO, OR ARISING OUT OF THE U.S.
BANK DIRECT LOANS, THAT ARE PENDING IN THIS ACTION AGAINST THE
RELEASED PERSONS AND (2) U.S. BANK NATIONAL ASSOCIATION ND, SINCE
ALL CLAIMS ASSERTED IN THIS ACTION AGAINST U.S. BANK NATIONAL
ASSOCIATION ND ARE RELEASED CLAIMS**

Upon consideration of Michael P. and Shellie Gilmor, Michael E. and Lois A. Harris, Leo E. Parvin, Jr., Ted and Raye Ann Varns, Mark and Thomasina Shipman, William and Marion Jones, Bruce and Mary James, Kevin and Susan Schaefer, David and Nicole Warkentien, John and Jeanne Rumans, Patricia Ann Worthy, Derrick and Alethia Rockett, William and Carole Hudson, James and Kathleen Woodward, Jeffrey Weathersby, Debra Mooney, and Joseph and Amy Black (“Named Plaintiffs in this case”) and U.S. Bank National Association ND and U.S. Bank National Association (“Settling Defendants”) Joint Motion For An Order And Judgment Approving The Voluntary Dismissal With Prejudice Of (1) The Released Claims,¹ Which Are Defined In The Agreement To Include Claims Concerning, Relating To Or Arising

¹ The Agreement defines “Released Claims” in Section 2.30. “Released Claims” include the claims asserted against the Settling Defendants with respect to the U.S. Bank Direct Loans in this case. Agreement at Section 2.30.

Out Of The U.S. Bank Direct Loans,² That Are Pending In This Action Against The Released Persons³ And (2) U.S. Bank National Association ND, Since All Claims Asserted In This Action Against U.S. Bank National Association ND Are Released Claims, and for good cause shown, it is hereby **ORDERED, ADJUDGED, AND, DECREED** that:

1. Deanthony Thomas and Susan Jelinek-Thomas⁴, James C. Baker and Jill S. Baker, David R. Beebe and Nancy J. Beebe, Danita S. Couch and Jack T. Chastain, Sr., Jeffrey A. Cox and Michelle A. Cox, Dana S. Hall and Melanie D. Hall, Steven M. Rich, Phillip M. Schrier and Sharon K. Schrier, William S. Springer and Linda A. Springer, and Ted Varns and Raye Ann Varns (“Named Plaintiffs”) in *Thomas, et al v U.S. Bank National Association ND and U.S. Bank National Association*, Case No. 1216-CV20561, Circuit Court of Jackson County, Missouri, Div. 16 (the “*Thomas* case”) and Settling Defendants entered into a Settlement per the terms of a Settlement and Release Agreement (the “Agreement”), Exhibit 1 to the Joint Motion, that has been effectuated through a Final Approval Order and a Final Judgment entered on November 16, 2012 in the *Thomas* case. Unless otherwise provided herein, all capitalized terms in this Order and Final Judgment shall have the same meaning as those terms in the Agreement.

2. The Court hereby dismisses with prejudice (1) all the Released Claims, which are defined in the Agreement to include claims concerning, relating to or arising out of the U.S. Bank Direct Loans, that are pending in this action against the Released Persons which Released Persons include Settling Defendants, U.S. Bank National Association ND and U.S. Bank

² The Agreement defines “U.S. Bank Direct Loan” in Section 2.39. Agreement at Section 2.39.

³ The Agreement defines “Released Persons” in Section 2.29. “Released Persons” include the Settling Defendants. Agreement at Section 2.29.

⁴ As to their October 5, 1998 Missouri Second Mortgage Loan only.

National Association, and other Released Persons, and (2) U.S. Bank National Association ND, since all claims asserted in this action against U.S. Bank National Association ND are Released Claims. Such Dismissals shall be effective December 27, 2012, provided there are no appeals filed on or before December 26, 2012 from the Final Judgment entered on November 16, 2012 in *Thomas, et al v U.S. Bank National Association ND and U.S. Bank National Association*, Case No. 1216-CV20561, Circuit Court of Jackson County, Missouri, Div. 16. Each party shall bear its own costs. All other claims in this action, including but not limited to the claims asserted against U.S. Bank National Association with respect to loans other than U.S. Bank Direct Loans, shall remain pending.

3. Per the Parties' stipulations in the Agreement, the Court finds that the Non-U.S. Bank Direct Loans Borrowers⁵ cannot recover any damages, penalties or other relief from the Settling Defendants with respect to any of the U.S. Bank Direct Loans before the Court which finding and/or conclusion shall not be deemed a holding that the Non-U.S. Bank Direct Loans Borrowers have released any claims of any kind or type with respect to the Missouri Second Mortgage Loans.

4. Any and all claims against the Released Persons for contribution and non-contractual indemnity related to or arising from the Released Claims or from any claims of the Named Plaintiffs and/or the U.S. Bank Direct Loans Settlement Class Members⁶ in this action with respect to the U.S. Bank Direct Loans are permanently barred, prohibited and enjoined.

⁵ The Agreement defines "Non-U.S. Bank Direct Loans Borrowers" in Section 2.25. Agreement at Section 2.25.

⁶ The Agreement defines a "U.S. Bank Direct Loans Settlement Class Member" in Section 2.41. Agreement at Section 2.41.

5. Pursuant to Fed. R. Civ. P. 54(b), there is no just reason to delay the entry of final judgment, and accordingly, the judgment of dismissals referenced in paragraph 2, above shall be final and appealable as of December 27, 2012 subject to the condition in paragraph 2, above. All other claims in this action, including but not limited to the claims asserted against U.S. Bank National Association with respect to loans other than U.S. Bank Direct Loans, shall remain pending.

IT IS SO ORDERED.

DATE: December 20, 2012

/s/ Ortrie D. Smith
ORTRIE D. SMITH, SENIOR JUDGE
UNITED STATES DISTRICT COURT